

Monday, August 2, 2010

Division Two

A122576 – DeSilva Gates Construction, L.P., v. M. Bumgarner, Inc.

The judgment in favor of MBI is reversed insofar as it concludes MBI had no duty to defend DeSilva Gates in the underlying action. Insofar as the judgment concludes MBI had no duty to indemnify DeSilva Gates, we affirm. The matter is remanded for further proceedings, consistent with this opinion, including the award of attorney fees and costs reasonably incurred by DeSilva Gates in enforcing MBI's duty to defend under the subcontract. In all other respects, the judgment is affirmed. Kline, P.J., We concur: Haerle, J., Richman, J. (Not for Publication.)

Division Four

A125685 – In re D.R., a Person Coming Under the Juvenile Court Law. The People, v. D.R.

The order is affirmed. Rivera, J., We concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A122699 – The People, v. Frank William Cunliffe.

The judgment is affirmed. Jones, P.J., We concur: Simons, J., Bruiniers, J. (Not for Publication.)

Tuesday, August 3, 2010

Division Two

A127650 – The People, v. Michael Travis McInerney.

Our independent review of the record reveals no arguable issue that requires further briefing. Accordingly, the judgment is affirmed. Lambden, J., We concur: Kline, P.J., Richman, J. (Not for Publication.)

Tuesday, August 3, 2010 (Continued)

A128421 – In re R.S.V., a Person Coming Under the Juvenile Court Law. R.V., v. The Superior Court of Solano County, R.P.I., Solano County Department of Child Welfare Services.

The petition for extraordinary relief is denied on the merits. Our decision is final as to this court immediately. (Cal. Rules of Court, rule 8.264(b)(3).) The request of a temporary stay of the section 366.26 hearing is denied. Haerle, Acting P.J., We concur: Lambden, J., Richman, J. (Not for Publication.)

Division Four

A124144 – The People, v. Robert Joseph Forest.

The order is affirmed. Rivera, J., We concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A125408, A125759 – In re A.B. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. C.C.

The appeals are dismissed. Rivera, J., We concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday, August 4, 2010

Division One

A127680 – In re Richard Schoenfeld, on Habeas Corpus.

On this record, the Board of Parole Hearings erred in taking the position it had no discretion under applicable DSL regulations in the calculation of a release date for Richard Schoenfeld. In addition, the Board erred when it failed to simultaneously calculate his term under governing regulations applicable to the ISL, and thereafter failed to impose the earlier of the two calculated release dates.

The petition for writ of habeas corpus is therefore granted to the extent that the Board of Parole hearings is ordered to immediately set a hearing to take place on or before September 8, 2010, to recalculate Richard Schoenfeld's release date under both ISL and DSL regulations and thereafter impose the earlier of the two release dates. In all other respects, the petition for writ of habeas corpus is denied without prejudice.

This opinion is final as to this court immediately. Banke, J., We concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Wednesday, August 4, 2010 (Continued)

A128256 – N.F., v. Superior Court of Sonoma County, R.P.I. Sonoma County Human Services Department et al.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. (Cal. Rules of Ct., rules 8.454(a), 8.490(b)(3).) Dondero, J., We concur: Marchiano, P.J., Banke, J. (Not for Publication.)

Division Two

A127505 – Discovery Bay Property Owners Association, Inc., v. Roger Di Fate, Sr.

The order denying the motion for attorney fees is reversed. The matter is remanded to the trial court to determine the reasonable amount of fees to be awarded to Di Fate. Di Fate is awarded the costs of appeal. Lambden, J., We concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Three

A124248 – The People, v. Mayhue Titus Johnson.

The judgment is affirmed. Siggins, J., We concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

Division Four

A124373 – Shirley Robinson, v. Alze Roberts, Odessa Bolton.

The judgment is affirmed. Reardon, J., We concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

A126283 – La Serena Properties et al., v. Gerald Weisbach et al.

BY THE COURT: It is ordered that the opinion filed herein on July 15, 2010, be modified as follows: (See order.)

There is no change in the judgment. Ruvolo, P.J. (Certified for Publication.)

Wednesday, August 4, 2010 (Continued)

A126312 – The People, v. Kenneth Brumfield.

The judgment is reversed and the matter is remanded to the superior court to allow defendant the opportunity to withdraw his plea. Should he fail to do so within 30 days of the filing of the remittitur, the judgment is affirmed. Rivera, J., We concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION ONE

Wednesday, August 4, 2010

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Margulies, Justice, Banke, Justice, Raquel Arellano, Deputy Clerk, and CHP Officer Tom Lipsey, Bailiff.

- A124508 People,
v.
Javante Turner.
Cause called and argued by Robert Condie, counsel for appellant, and William Kuimelis, counsel for respondent. Cause ordered submitted.
- A122794 People,
v.
Randy Phipps Salazar et al.
Cause called and argued by Joseph Shevelson, counsel for appellant Salazar, Victor Morse, counsel for appellant Anderson, and Karen Bovarnich, counsel for respondent. Cause ordered submitted.
- A124730 Karen Lee et al.
v.
Fidelity National Title Insurance Co.
Cause called and argued by Michael Veiluva, counsel for appellant, and Susan Williams, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION ONE

Wednesday, August 4, 2010

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Dondero, Justice, Banke, Justice, Raquel Arellano, Deputy Clerk, and CHP Officer Harjit Singh, Bailiff.

A126288 Judith Butler,
v.
Kenneth DeMartini.
Cause called and waived by John Hartog, counsel for appellant, and Kennedy Reed, counsel for respondent. Cause ordered submitted.

A124641 At this point in the proceedings, J. Banke left the bench and J. Margulies joined.
John S. Karls
v.
The 26 U.S.C. 1504(A)(1)"Affiliated Group" of the Wachovia Corp.
Cause called and argued by John Karls, appellant in propia persona, and David deJesus, counsel for respondent. Cause ordered submitted.

Court Adjourned

Thursday, August 5, 2010

Division One

A124503 – In re the Marriage of Sandra Bauer and Gregory Bauer. Bauer, v. Gregory Bauer.

BY THE COURT: The petition for rehearing is denied. Marchiano, P.J.,

A126901 – The People, v. Jesus Cuouhtemoc Caballero.

The judgment is affirmed. Marchiano, P.J., We concur: Margulies, J., Banke, J. (Not for Publication.)

Division Two

A125407 – In re D.S., a Person Coming Under the Juvenile Court Law. The People, v. D.S.

The matter is remanded to the juvenile court with directions to recalculate the maximum period of confinement. In all other respects, the order is affirmed. Haerle, Acting P.J., We concur: Lambden, J., Richman, J. (Not for Publication.)

A123709 – The People, v. James Edward Jones.

The judgment is affirmed. Kline, P.J., We concur: Haerle, J., Lambden, J. (Not for Publication.)

A126260 – The People, v. Roderic Dewberry.

The judgment is affirmed. Kline P.J., We concur: Haerle, J., Richman, J. (Not for Publication.)

Division Four

A127654 – In re Raymond B., a Person Coming Under the Juvenile Court Law. The People, v. Raymond B.

The dispositional order is affirmed. Sepulveda, J., We concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Friday, August 6, 2010

Division Four

A124603 – The People, v. Prentice Wade Nothnagel.

The judgment is reversed and the case is remanded to the trial court for reconsideration of defendant's equal protection claim in light of *McKee*. The trial court is also directed to suspend further proceedings pending finality of the proceedings in *McKee* (see *McKee, supra*, 47 Cal.4th at pp. 1208-1210), including any proceedings in the Superior Court of San Diego County in which *McKee* may be consolidated with related matters. "Finality of the proceedings" shall include the finality of any subsequent appeal and any proceedings in the California Supreme Court. In all other respects, the judgment is affirmed. (Not for Publication.)

Division Five

A128182 – The People, v. Adam Ross Mendes.

The judgment is affirmed. Simons, Acting P.J., We concur: Needham, J., Bruiniers, J. (Not for Publication.)

A126544 – The People, v. Jose Guadalupe Diaz.

The judgment is affirmed. Simons, Acting P.J., We concur: Needham, J., Bruiniers, J. (Not for Publication.)

Monday, August 9, 2010

Division One

A127226 – The People, v. Kenneth Adrian Fuller.

The judgment is amended to award defendant 128 days of credit under section 4019 and, as so amended, the judgment is affirmed. The trial court is directed to prepare and forward an amended abstract of judgment reflecting the modification to the Department of Corrections and Rehabilitation. Marchiano, P.J., We concur: Margulies, J., Banke, J. (Not for Publication.)

Monday, August 9, 2010 (Continued)

A127624 – The People, v. Matthew Paul Scheidt.

The appeal is dismissed. Marchiano, P.J., We concur: Margulies, J., Dondero, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Monday, August 9, 2010

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J. and Jenkins, J.; and B. Robbins and L. Phonseya, Deputy Clerks.

- A126305 Ryan M. Schwab,
v.
County of Lake, Sheriff Department et al.,
Cause called and argued by Ryan M. Schwab, appellant in pro per via telephone conference, and John Whitefleet, counsel for respondent. Cause ordered submitted.
- A126135 California Department of Social Services,
v.
Joshua Leonard.
Cause called and argued by Elizabeth Edwards, counsel for appellant, and Angela Schwartz, counsel for respondent. Cause ordered submitted.
- A125555 Cecilia H. Sistena,
v.
Genentech et al.,
Cause called and argued by Steven L. Robinson, counsel for appellant, and Greg J. Richardson, counsel for respondent. Cause ordered submitted.

Court Adjourned.

Tuesday, August 10, 2010

Division One

A126247 – The Hearing Dog Program, v. San Francisco Society for the Prevention of Cruelty to Animals.

The judgment is affirmed. Margulies, J., We concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Division Five

A124999 – Araceli Vitug, v. Alameda Point Storage, Inc.

The judgment is affirmed. Respondent is awarded costs on appeal. Simons, Acting P.J., We concur: Needham, J., Bruiniers, J. (Certified for Publication.)

A126729 – The People, v. Kirk Vernell Moore.

The case is remanded to the superior court for further proceedings consistent with this decision. The judgment is otherwise affirmed. Needham, J., We concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

A123055 – Insurance Associates of Northern California, v. Royal Indemnity Company.

The trial court's judgment is affirmed. Respondent is awarded costs on appeal. Simons, Acting P.J., We concur: Needham, J., Bruiniers, J. (Not for Publication.)

A124955 – The People, v. Alfredo Garcia Pangilinan.

The judgment is affirmed. Simons, Acting P.J., We concur: Needham, J., Bruiniers, J. (Not for Publication.)

Wednesday, August 11, 2010

Division One

A125812 – Mary Richtenburg et al., v. Wells Fargo Bank, N.A.

The order sustaining the Bank's demurrer to the TAC is affirmed. However, the order is modified to allow plaintiffs leave to amend to state a claim with respect to the Bank's tax preparation fees.

Parties to bear their own costs. Dondero, J., We concur: Margulies, Acting P.J., Richman, J. (Not for Publication.)

A124641 – Howard R. Mullin et al., v. Valley of California, Inc. et al.

The judgment is affirmed. Banke, J., We concur: Margulies, Acting P.J., Dondero, J. (Not for Publication.)

A122448 – Bay Guardian Company, v. New Times media LLC et al.

Accordingly, the judgment against defendant East Bay Express is reversed. In all other respects, the judgment is affirmed. Dondero, J., We concur: Marchiano, P.J., Margulies, J. (Certified for Partial Publication.)

A122448 – Bay Guardian Company, v. New Times Media LLC et al.

BY THE COURT: It is ordered that the opinion filed herein on August 11, 2010, be modified in the following particulars: (See order.)

There is no change in the judgment. Marchiano, P.J. (Certified for Partial Publication.)

Division Three

A125115 – In re R.M., a Person Coming Under the Juvenile Court Law. The People, v. R.M.

BY THE COURT: The petition for rehearing is denied. McGuiness, P.J.

Division Four

A123061 – The People, v. Anthony Scott Cape.

BY THE COURT: The petition for rehearing filed by defendant on August 6, 2010 is denied.

Wednesday, August 11, 2010 (Continued)

The opinion filed herein on July 23, 2010, is ordered modified to add the following paragraph on page 11 immediately before part II.E.: (See order.)

There is no change in the judgment. Rivera, Acting P.J., (Not for Publication.)

A121569 & A123187 – James Howard et al., v. American National Fire Ins. Co. et al.

The judgment is modified to award plaintiffs prejudgment interest of \$1,431,478.73 but otherwise is affirmed. Plaintiffs' postjudgment cost award is modified to strike \$46,542.32 awarded in private judge fees but is otherwise affirmed. Plaintiffs shall recover costs incurred on the appeal and cross-appeal in case number A121569, upon timely application in the trial court. (Cal. Rules of Court, rule 8.278(c)(1).) The parties shall bear their own costs incurred in case number A123187. Sepulveda, J., We concur: Ruvolo, P.J., Rivera, J. (Certified for Publication.)

A127442 – Conservatorship of the Person and Estate of Virginia Smith. Alan Statman, v. Mary Vivian.

The trial court's November 3, 2009, order granting respondent's petition for substituted judgment is affirmed. Respondent shall recover his costs on appeal. Sepulveda, J., We concur: Reardon Acting P.J., Rivera, J. (Not for Publication.)

A125498 – The People, v. Leonel Miguel Palomares.

The judgment is affirmed. Rivera, J., We concur: Reardon Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A124739 – The People, v. Lovell Sabastian Keller.

The judgment is affirmed. Needham, J., We concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

A125212 – Mercedes Perlas et al., v. GMAC Mortgage, LLC, et al.

The judgment of dismissal is affirmed. Costs to respondents. Simons, Acting P.J., We concur: Needham, J., Bruiniers, J. (Certified for Partial Publication.)

A127944 – In re Jonathan H., a Person Coming Under the Juvenile Court Law. The People, v. Jonathan H.

Wednesday, August 11, 2010 (Continued)

The judgment is affirmed. Needham, J., We concur: Jones, P.J., Simons, J. (Not for Publication.)

**A126985 – In re E.M. et al., Persons Coming Under the Juvenile Court Law.
Contra Costa County Children and Family Services Bureau, v. K.J.**

The order terminating mother's parental rights is affirmed. Jones, P.J., We concur: Simons, J., Needham, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, August 11, 2010

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Lambden, J., Richman, J., Officer Singh and I. Santos, Deputy Clerk.

A124637 The People,
 v.
 Salvadore Chavez.
Cause called and argued by Kelly Cronin Martin, counsel for appellant, and Ronald E. Niver, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A122345 The People,
 v.
 Royce Miller.
Cause called and argued by Terrence P. Goggin, counsel for appellant, and William M. Kuimelis, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Presiding Justice Kline left the bench and Acting Presiding Justice Haerle joined the bench for the remainder of the calendar.

A123272 The People,
 v.
 Marjorie Knoller.
Cause called and argued by Dennis Riordan, counsel for appellant, and Amy Haddix, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, August 11, 2010

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Richman, J., Officer Militar and I. Santos, Deputy Clerk.

A126552 Impreso, Inc., et al.,
v.
Donovan Bruce.
Cause called and argued by Kevin Kerr, counsel for appellant, and Frances Diaz, counsel for respondent. Cause ordered submitted.

A123463/
A124908 Estate of Arnold S. Gridley, Deceased.
Michael Gridley et al.,
v.
Christine Bennett et al.
Cause called and argued by Mary E. Mix, counsel for appellant, and James Wagstaffe, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Richman left the bench and Justice Lambden joined the bench for the remainder of the calendar.

A124650 United Educators of San Francisco et al.,
v.
San Francisco Unified School District.
Cause called and argued by Stewart Weinberg, counsel for appellant, and Dylan Carp, counsel for respondent. Cause ordered submitted.

A124196/
A124931 Eric Soderling,
v.
Office of the Attorney General of California et al.
Cause called and argued by Dennis V. Menke, counsel for appellant, and Jeffrey Vincent, counsel for respondent. Cause ordered submitted.

A125059 Burlingame Investment Corp.,
v.
Herman Kwai et al.;
Chinin Tana et al.
Cause called and argued by Chinin Tana, counsel for appellant, and Steve Mayer, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Thursday, August 12, 2010

Division Two

A123160 – The People, v. Eric Deione Davis.

We reverse the judgment in case No. VCR197472 as to counts one and two, assault with a deadly weapon (§ 245, subd. (a) (1)). The matter is remanded to the trial court with directions to strike counts one and two, amend the abstract of judgment as discussed in part V, *ante*, of this opinion, and forward a copy of the amended abstract of judgment to the Department of corrections and Rehabilitation. In all other respects, the judgments in both case No. VCR197472 and case No. VCR178077 are affirmed. Kline, P.J., We concur: Haerle, J., Richman, J. (Not for Publication.)

A123051 – The People, v. Oscar L. Payne, Jr.

The judgment is affirmed. Richman, J., We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A125510 – The People, v. Carlos Perez-Diaz.

The judgment is affirmed. Haerle, J., We concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A126217 – Rick L. Schwartz et al., v. Steve Poizner, as Insurance Commissioner, etc.

BY THE COURT: The opinion in the above-entitled matter filed on July 28, 2010, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. McGuinness, P.J. (Certified for Publication.)

A125555 – Cecilia H. Sistena, v. Genentech, Inc.

The judgment is affirmed, Genentech is to recover its costs on appeal. Pollak, J., We concur: McGuinness, P.J., Jenkins, J. (Not for Publication.)

Division Four

Thursday, August 12, 2010 (Continued)

A128055 – The People, v. Shawn L. Perrot.

The order is affirmed. Sepulveda, J., We concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

A122830 – The People, v. Gerry Phongboupha.

The judgment is affirmed. Ruvolo, P.J., We concur; Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A126237 – Jorge Vidrio, v. Victor Hernandez et al.

We affirm the trial court's July 29, 2009 order denying Vidrio's motion to set aside the default judgment and its July 31, 2009 order assigning rents. Vidrio shall pay Tenants' costs on appeal. Bruiniers, J., We concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Friday, August 13, 2010

Division Three

A124030 – The People, v. Marcell Andre Collins.

The judgment is affirmed. McGuinness, P.J., We concur: Pollak, J., Jenkins, J. (Not for Publication.)

A124061 – The People, v. Jaime Gutierrez.

The judgment is affirmed. McGuinness, P.J., We concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Five

A125386 – The People, v. Lonnie Wise.

The judgment is affirmed. Needham, J. We concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

Friday, August 13, 2010 (Continued)

A125683 – The People, v. Hugo Ribot.

The judgment is affirmed. Needham, J., We concur: Jones, P.J., Simons, J. (Not for Publication.)

A125717 – The People, v. Armani Anthony Shankles.

The judgment is affirmed. Simons, J. We concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

A126449 – The People, v. Aisha Ann Blue.

The order is affirmed. Simons, J., We concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

Monday, August 16, 2010

Division One

A126382 – John H. Stewart, v. David Parris, as Public Administrator, etc.

BY THE COURT: It is ordered that the opinion filed herein on July 21, 2010, be modified in the following particulars: (See order.)

There is no change in the judgment.

The petition for rehearing is denied. Marchiano, P.J. (Not for Publication.)

A126964 – The People, v. Brad Calvin Ward.

The judgment is amended to award defendant an additional 184 days of credit under section 4019, for a total of 732 days of credit (366 actual and 366 conduct) and, as so amended, the judgment is affirmed. The trial court is directed to prepare and forward an amended abstract of judgment reflecting the modification to the Department of Corrections and Rehabilitation. Banke, J., We concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A123557 – The People, v. Donta Ivory.

We modify the judgment to reflect that defendant should reimburse probation investigation costs in the amount of \$62.50. As modified, the judgment is affirmed. The

Monday, August 16, 2010 (Continued)

superior court is directed to prepare an amended abstract of judgment accordingly.
Lambden, J., We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Five

A126529 – The People, v. Roberto Flores.

The order is affirmed. Jones, P.J., We concur: Simons, J., Needham, J. (Not for Publication.)

A122030 – The People, v. Jennifer McPike.

The conviction for receiving stolen property under count 6 is reversed. The conviction for petty theft as a lesser included offense under count 1 is affirmed. The case is remanded for resentencing in light of this opinion. Needham, J., We concur: Jones, P.J., Simons, J. (Not for Publication.)

Tuesday, August 17, 2010

Division One

A128683 – L.B., v. Superior Court of San Francisco City and County, R.P.I. San Francisco Human Services Agency et al.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. (Cal. Rules of Ct., rules 8.454(a), 8.490(b)(3).) Marchiano, P.J., We concur: Margulies, J., Banke, J. (Not for Publication.)

A123298 – Lakeshore View Homeowners' Association, v. Pin Lian Tu.

The judgment in favor of Lakeshore and the order awarding Lakeshore attorney fees are affirmed. Banke, J., I concur: Margulies, Acting P.J., (See Concurring Opinion by Dondero, J.) (Not for Publication.)

Division Three

Tuesday, August 17, 2010 (Continued)

A127630 – In re G.B., a Person Coming Under the Juvenile Court Law. The People, v. G.B.

The dispositional order of February 3, 2010, is affirmed. Jenkins, J., We concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A127280 – In re K.B., a Person Coming Under the Juvenile Court Law. The People, v. K.B.

The judgment is affirmed. Siggins, J., We concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Five

A125155 – The People, v. Jonathan Dante Mims.

The judgment is affirmed. Bruiniers, J., We concur: Jones, P.J., Simons, J. (Not for Publication.)

Wednesday, August 18, 2010

Division Two

A124247 – The People, v. Gerald Gibson.

The judgment is affirmed. Haerle, J., We concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

A126305 – Ryan M. Schwab, v. County of Lake, et al.

The judgment is affirmed. Jenkins, J., We concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

A125679 – California Correctional Peace Officer's Association et al., v. State of California, et al.

Wednesday, August 18, 2010 (Continued)

The judgment is affirmed. Respondents are entitled to recover their costs on appeal.
Ruvolo, P.J., We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, August 18, 2010

The Court convened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Lambden, J., Richman, J., Officer Singh and I. Santos, Deputy Clerk.

A129173 John Arntz et al.,
v.
The Superior Court of the City and County of San Francisco;
Michela Alioto-Pier, RPI.
Cause called and argued by Jonathan Givner, counsel for petitioner, and
James Sutton, counsel for real party in interest. Cause ordered submitted.

COURT ADJOURNED.

Thursday, August 19, 2010

Division One

A125739 – The People, v. Jeffrey Shane Watson.

The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment correcting the errors we have identified and forward it to the Department of Corrections and Rehabilitation. Marchiano, P.J., We concur: Margulies, J., Dondero, J. (Not for Publication.)

A126256 – In re E.F., a person Coming Under the Juvenile Court Law. The People, v. E.F.

The juvenile court's order committing appellant to the DJJ is affirmed. However, the case is remanded to modify the commitment order to reflect appellant's precommitment credit for time served of 320 days. Margulies, J., We concur: Marchiano, P.J., Banke, J. (Not for Publication.)

A126903 – Michael John Walton, v. County of Lake et al.

BY THE COURT: The petition for rehearing is denied. Margulies, Acting P.J.

Division Two

A125059 – Burlingame Investment Corporation et al., v. Herman Kwai et al.

The order appealed from is affirmed. Defendants are to pay the costs of appeal. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A126857 – The People, v. Justin Dylan Strader.

The judgment is affirmed. Lambden, J., We concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Three

A124293 – The People, v. Jeremy S. Dansby.

The judgment is affirmed. Siggins, J., We concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

Thursday, August 19, 2010 (Continued)

A126595 – The People, v. Quincy Eugene Hilliard.

The judgment is affirmed. Jenkins, J., We concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

Thursday, August 19, 2010

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., and Needham, J.; and Felix Castuera, Deputy Clerk.

A124912 Richard Shelden,
Appellants,

v.

Marin County Employees Retirement Association et al.

Respondents;

County of Marin,

Intervener.

Cause called and argued by Donald Ramsey, counsel for appellant, and by Ashley Dunning, counsel for respondents. Cause ordered submitted.

A121879 The People,

v.

Andres P. Castillo.

Cause called and argued by Mark Greenberg, counsel for appellant, and by Donna Provenzano, counsel for respondent. Cause ordered submitted.

A125040 The People,

v.

Richard Bradford,

Cause called and argued by Lisa D'Orazio, counsel for appellant, and by John Deist, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Needham left the bench, and Justice Bruiniers joined the bench.

A124556 Sonoma County Water Coalition et al.,

v.

Sonoma County Water Agency et al.

Cause called and argued by Geoffrey Robinson, counsel for appellants, and by Stephan Volker, counsel for respondents. Cause ordered submitted.

A126479 In re K.H., a Person Coming Under the Juvenile Court Law.
The People,
v.
K.H.
Cause called and argued by Michael O'Flannigan, counsel for appellant, and by Michael Banister, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Simons left the bench, and Justice Needham joined the bench.

A126243 Carolyn Blanchard,
v.
Pier 1 Imports Inc. et al.
Cause called and argued by Frank Moore, counsel for appellant, and by Sean Selegue, counsel for respondents. Cause ordered submitted.

A123293 Dennis E. Baca,
Appellant,
v.
Robert Wayne Matheson Jr.,
Respondent;
Berkeley Nutritional Manufacturing Corp.,
Respondent.
Cause called and argued by Jeffrey Leon, counsel for appellant, and by Danielle Arteaga, counsel for respondent Berkeley Nutritional Manufacturing Corp., and Gregory Dela Pena, counsel for respondent Robert Matheson Jr. Cause ordered submitted.

A126567 Dan Mescher,
v.
Pacific Gas & Electric.
Cause called and argued by Phillip Cooke, counsel for appellant, and by Shari Hollis-Ross, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Friday, August 20, 2010

Division One

A126480 – In re B.H., a Person Coming Under the Juvenile Court Law. The People, v. B.H.

Accordingly, the judgment is affirmed. Dondero, J., We concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A127854 – Henry Grandberry, v. Greg Lewis, as Acting Warden, etc.

The order denying the petition for writ of mandate and declaratory relief is affirmed. Dondero, J., We concur: Margulies, Acting P.J., Banke, J. (Not for Publication.)

A126656 – The People, v. Brandon Jamal Perkins.

Accordingly, the judgment is affirmed. Dondero, J., We concur: Marchiano, P.J., Banke, J. (Not for Publication.)

A127156 – The People, v. Jose Galan-Najarro.

The judgment is affirmed. Dondero, J., We concur: Marchiano, P.J., Banke, J. (Not for Publication.)

A126702 – John S. Karls, v. The 26 U.S.C. § 1504(A)(1) “Affiliated Group” of the Wachovia Corp.

The order granting Wachovia’s motion to quash, denying the plaintiff’s motion for reconsideration, and dismissing the complaint with prejudice are affirmed. Dondero, J., We concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A125718 – The People, v. Cynthia Dumas-Violette.

The judgment is affirmed. Dondero, J., Marchiano, P.J., Banke, J. (Not for Publication.)

Division Two

A125042 – Suisun Alliance, v. Suisun City et al., R.P.I. Wal-Mart Stores, Inc.

The judgment is affirmed. Haerle, J., We concur: Kline, P.J., Richman, J. (Not for Publication.)

Friday, August 20, 2010 (Continued)

**A127881 – In re Zachariah E., a Person Coming Under the Juvenile court Law.
Alameda County Social Services Agency, v. Sabrina E., Cynthia S., et al.**

Accordingly, the present appeal is dismissed. Kline, P.J, We concur: Haerle, J., Lambden, J. (Not for Publication.)

A123272 – The People, v. Marjorie F. Knoller.

The judgment is affirmed. Lambden, J., We concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Four

A124098 – California Hospital Association, v. David Maxwell-Jolly, as Director, etc. et al.

The judgment is reversed and the matter is remanded to the trial court. The trial court shall issue a writ of mandate: (1) directing the Department to recalculate the reimbursement rate for DF/NF's for the 2001 – 2002, 2002 – 3004, 2003 – 2004, 2004 – 2005, and 2005 – 2006 rate years, in accordance with the statutory requirements; (2) enjoining the Department from utilizing the 20 percent exclusion methodology in its calculations for DP/NF's reimbursement rates, without prior consideration of the statutory factors set forth in section 30(A); and (3) enjoining the Department from utilizing the rate freeze methodology in its calculations of DP/NF's reimbursement rates for purely budgetary reasons and without prior consideration of the statutory factors set forth in section 30(A).

Appellant is entitled to its costs on appeal. Reardon, J., We concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

**A128619 – In re Montrell H., a Person Coming Under the Juvenile court Law.
The People, v. Montrell H.**

The judgment is affirmed. Bruiniers, J., We concur: Jones, P.J., Simons, J. (Not for Publication.)

A127152 – The People, v. Able Foy.

The judgment is affirmed. Bruiniers, J., We concur: Jones, P.J., Needham, J. (Not for Publication.)

Friday, August 20, 2010 (Continued)

A123922 – The People, v. Aristotle Candelaria Quadra.

The conviction on count 7 is reversed and the matter is remanded for resentencing. The judgment is otherwise affirmed. Simons, J., We concur: Jones, P.J., Needham, J. (Not for Publication.)

Monday, August 23, 2010

Division One

A124229 – The People, v. Richard Darnell Wallace.

The judgment, as reflected in the second amended abstract of judgment, filed April 19, 2010, is affirmed. Margulies, Acting P.J., We concur: Dondero, J., Banke, J. (Not for Publication.)

Division Five

A122932 – Ted Jacob Engineering Group, Inc., v. The Ratcliff Architects.

The judgment and the August 2008 award of attorney fees and costs are affirmed. TJEG's protective cross-appeal is dismissed as moot. Ratcliff shall pay TJEG's costs on appeal. Bruiniers, J., We concur: Jones, P.J., Simons, J. (Certified for Partial Publication.)

A126762 – The People, v. John Caleb Cowper.

The order placing appellant on probation is affirmed. Jones, P.J., We concur: Needham, J., Bruiniers, J. (Not for Publication.)

Tuesday, August 24, 2010

Division One

A125634 – The People, v. Tyler John Redick.

The judgment is affirmed. Banke, J., We concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Division Two

Tuesday, August 24, 2010 (Continued)

A129173 – John Arntz et al., v. The Superior Court of the City and County of San Francisco, R.P.I. Michela Alioto-Pier.

Let a peremptory writ of mandate issue commanding respondent court to set aside its order of August 5, 2010, and to enter an order denying the “Motion To Grant Declaratory Relief and Writ Of Mandate” filed by real party in interest Michela Alioto-Pier. In light of the need for speed, we order this decision to be final forthwith. (Cal.Rules of Court, rule 8.490(b)(3).) Petitioners shall recover their costs. The stay previously imposed shall remain in effect until the remittitur issues. Richman, J., We concur: Kline, P.J., Lambden, J. (Certified for Publication.)

A123565 – In re the marriage of Kathryn Gimple and Scott Parker. Kathryn (Gimple) Probasco, v. Scott Parker.

The postjudgment orders are affirmed. Respondent is awarded his costs on this appeal. Kline, P.J., We concur: Haerle, J., Richman, J. (Not for Publication.)

Division Three

A124417 – The People, v. Tishannon Elizabeth Wilder.

The trial court’s order of restitution is affirmed. Jenkins, J., We concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A124602 – The People, v. Jerry Dean Savage.

The judgment is affirmed and the matter is remanded to the trial court for correction of the abstract of judgment to reflect the proper number of days of presentence credit in accordance with this opinion. Pollak, J., We concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Division Four

A122485 – California School Boards Association et al, v. State Board of Education, R.P.I. Aspire Public Schools, Inc.

BY THE COURT: The petition for rehearing filed by respondents on August 10, 2010, is denied.

The opinion filed herein on July 26, 2010, is ordered modified as follows: (See order.)

There is no change in the judgment. Ruvolo, P.J. (Certified for Publication.)

Tuesday, August 24, 2010 (Continued)

Division Five

A127097 – The People, v. Rigoberto Valle.

The judgment is affirmed. Simons, Acting P.J., We concur: Needham, J., Bruiniers, J.
(Not for Publication.)

A122408 – Salvio Street LLC, v. Albert Lee.

A123080 – Salvio Street LLC, v. Albert Lee.

BY THE COURT: The opinion filed on July 29, 2010, is modified as follows: (See order.)

This modification does not change the judgment.

The petition for rehearing is denied. Jones, P.J. (Not for Publication.)

A125808 – Schram Construction, Inc., v. The Regents of the University of California et al, R.P.I. Southland Industries.

The judgment is reversed, with directions to the trial court to issue a writ of mandate invalidating the contract awarded to Southland and compelling the University to publish a new bid solicitation, consistent with this opinion, calling for rebids for the mechanical and plumbing work on the Energy Center and Outpatient Building. Jones, P.J., We concur: Needham, J., Bruiniers, J. (Certified for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, August 24, 2010

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P. J.; Reardon, J.; Sepulveda, J.; Annie Reasoner, Deputy Clerk; CHP Officer Harjit Singh, Bailiff.

- A126268 Floro Zarate
v.
Rodelio Manuel
Cause called. Orrin Grover appeared by telephone and argued for appellant Manuel. Gregory Jung argued for respondent Zarate. Cause submitted.
- A127580 Children's Hospital & Research Center Oakland
v.
Workers' Compensation Appeals Board et al.
Cause called. Carl Blumenstein argued for petitioner Children's Hospital. Daniel Smith argued for real party in interest Suzanne McKnight. Michael Young was also present on behalf of Ms. McKnight, but did not address the court. Cause submitted.
- A125046 Desley Brooks
v.
San Francisco Chronicle, et al
Cause called. Howard Moore argued for appellant Brooks. Jonathan Donnellan argued for respondent San Francisco Chronicle. Cause submitted.
- A125079 UBS Financial Services, Inc.
v.
Timothy Chan, et al
Cause called. Michael Keck argued for appellants Chan, et al. Cameron Stout argued for respondent UBS. Cause submitted.
- At this point, Reardon, J., left the bench and Rivera, J. joined the bench. Argument continued before Ruvolo, P.J., Sepulveda, J., and Rivera, J.
- A124579 A.M.
v.
A.H.
Cause called. Dominic Porrino argued for appellant A.H. Richard Helzberg argued for respondent A.M. Cause submitted.

The court recessed at 11:02 a.m.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, August 24, 2010

The Court reconvened at 1:30 p.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P. J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Tom Lipsey, Bailiff.

A126534 Eren Hussein
v.
David Driver et al.
Cause called. Ralph A. Kerstetter argued for appellant Hussein. Jeffrey H. Belote argued for respondents. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P. J., Reardon, J., and Rivera, J.

A126578 People
v.
Carmel Alfred Spiteri
Cause called. Ozro Childs argued for appellant Spiteri. Violet Lee argued for respondent. Cause submitted.

A127283 Ramesh C. Trivedi
v.
Curexo Technology Corporation
Cause called. Victor T. Fu teleargued for appellant Corporation. Kate Solodky argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P. J., Reardon, J., and Sepulveda, J.

A124643 People
v.
Andrew D. Johnson
Cause called. David Baskind, who did not request oral argument and is counsel for respondent the People, appeared. Cause submitted without any argument.

At this point, the court reconstituted itself to include Reardon, Acting P. J., Sepulveda, J., and Rivera, J.

A124678 Bradshaw & Associates, P. C.
v.
Mary Lonergan et al.

Cause called. Joseph Urbanski argued for appellant Bradshaw & Associates, P. C. Joel Donahoe argued for respondents. Cause submitted.

Court adjourned at 2:32 p.m.

Wednesday, August 25, 2010

Division One

A128769 – A.S., v. Superior Court of Contra Costa County, R.P.I. Contra Costa County Bureau of Children and Family Services et al.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis, v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. (Cal.Rules of Court, rules 8.454(a), 8.490(b)(3).) Banke, J., We concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A115199 – Bar-K, Inc., v. Security Title Corp., First American Title Insurance Company.

The trial court's rulings and judgment are affirmed in their entirety. The parties shall bear their own costs of appeal. Lambden, J., We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A124956 – The People, v. Robert Lightner.

The judgment is affirmed. Richman, J., Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A125438 – The People, v. Laurence O. Williams.

The judgment is affirmed. Siggins, J., We concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

A127370 – Conservatorship of the Person and Estate of D.S. Public Guardian of the County of Mendocino, v. D.S.

The appeal is dismissed. Siggins, J., We concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

Wednesday, August 25, 2010 (Continued)

A128140 – The People, v. Berhane Woldai Tshai.

The judgment is affirmed. Ruvolo, P.J., We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A125101 – The People, v. Nathan Montgomery Henderson.

The trial court shall prepare an amended abstract of judgment to show that execution of sentence on Count One is stayed pursuant to Penal Code section 654. The trial court is further directed to send a copy of the amended abstract to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. Jones, P.J., We concur: Simons, J., Bruiniers, J. (Not for Publication.)

Thursday, August 26, 2010

Division One

A127623 – The People, v. Kenneth Charles Steele.

After a full review of the record, we find no arguable issues and, therefore, affirm the judgment. Banke, J., We concur: Margulies, Acting P.J., Dondero, J. (Not for Publication.)

A125828 – James Woodmansee, v. Naum Volovets.

BY THE COURT: The petition for rehearing is denied. Marchiano, P.J.

A127627 – In re X.T., a Person Coming Under the Juvenile Court Law. The People, v. X.T.

The order finding X.T. in violation of his probation is affirmed. Banke, J., We concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Division Two

A127279 – In re Joseph L., a Person Coming Under the Juvenile Court Law. The People, v. Joseph L.

The order of the juvenile court is affirmed. Kline, P.J., We concur: Haerle, J., Richman, J. (Not for Publication.)

Thursday, August 26, 2010 (Continued)

A124935 – The People, v. Joshua Daniel Gordon.

The judgment of the trial court is affirmed. Kline, P.J., We concur: Haerle, J., Lambden, J. (Not for Publication.)

A116798 – James Clayworth et al., v. Pfizer, Inc. et al.

The summary judgment is reversed, and the cause is remanded to the trial court with directions to vacate its order granting defendants' motion for summary judgment, and to enter an order denying that motion. Plaintiffs shall recover their costs on appeal. Richman, J., We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A123210 – The People, v. Rafael A Cuevas.

The judgment is affirmed. Siggins, J., We concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

Division Four

A124735 – The People, v. Dwayne Bruce Lee.

The matter is remanded to the trial court for the sole purpose of permitting the trial court to consider: (1) the appropriate sentencing enhancements alleged in the information and proven at trial; and (2) the associated assessments to be imposed according to former section 290.3, subdivision (a). The trial court should also determine whether appellant has the ability to pay said fines and their associated assessments. After consideration of these issues, the superior court clerk is directed to amend the abstract of judgment to conform to the trial court's order and to forward a copy of the amended abstract to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. Ruvolo, P.J., We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A126228 – Daniel E. Cohn et al., v. First American Title Insurance Company.

We reverse the judgment in First American's favor and remand for further proceedings in accord with our decision. Parties to bear their own costs on appeal. Reardon, J., We concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A127725 – In re A.G., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency, v. E.G.

Thursday, August 26, 2010 (Continued)

Respondent's request for judicial notice is granted. The juvenile court's orders are affirmed. Sepulveda, J., We concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A125692 – KDF Post Steret, L.P. et al., v. San Francisco Rent Stabilization and Arbitration Board et al., R.P.I. Patrick Murphy et al.

The order denying a petition for writ of administrative mandate is affirmed. Respondents and real parties in interest shall recover their costs on appeal. Sepulveda, J., We concur: , Ruvolo, P.J., Rivera, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Thursday, August 26, 2010

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J. and Jenkins, J.; Siggins, J and L. Phonseya, Deputy Clerk.

A124193 The People,
A128246 v.
Richard Miranda.
In re Richard J. Miranda on Habeas Corpus.
Cause called and argued by J. Bradley O'Connell, counsel for appellant, and Sharon Wooden, counsel for respondent. Cause ordered submitted.

A126112 Jay Lee et al.,
v.
Taylor Woodrow Homes.
Cause called and argued by Arthur C. Chambers, counsel for appellant, and Robert Balmuth, counsel for respondent. Cause ordered submitted.

A127520 Winslow Rouse,
v.
Jeannine Rouse Deer.
Presiding McGuiness noted that there was no appearance by counsel for respondent. Cause called and argued by Dawana Simone Bain, counsel for appellant. Cause ordered submitted.

At this point in the proceedings, Justice Siggins left the bench and Justice Pollak joined the bench.

A123218 The People,
v.
Xiao Shan Feng.
Cause called and argued by Guy Campisano Jr, counsel for appellant, and Christopher J. Wei counsel for respondent. Cause ordered submitted.

A125074 Dylan Monroe, a Minor, etc. et al.,
v.
San Mateo Medical Center et al.
Cause called and argued by Steve Vartazarian, counsel for appellant, and Sonja Dahl, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuiness left the bench and Justice Siggins re-joined argument. Justice Pollak presided over the remainder of the morning session.

A125352 Richard Vanderkous,
v.
Nanette Ujdur Conley.
Cause called and argued by John P. Makin, counsel for appellant, and John Toby Schreiber, counsel for respondent. Cause ordered submitted.

A127675 Kuniko Yamamoto,
A125297 v.
Wells Fargo Bank.
Michael Lynn Gabriel,
v.
Wells Fargo Bank.
Cause called and argued by Michael Lynn Gabriel, counsel for appellant, and Jan Timothy Chilton, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Friday, August 27, 2010

Division Two

A127815 – In re J.M., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency, v. M.M.

The orders denying the section 388 petition for modification, and terminating appellant's parental rights, are affirmed. Kline, P.J., We concur: Lambden, J., Richman, J. (Not for Publication.)

Monday, August 30, 2010

Division Two

A127249 – The People, v. Jean Louis Outtara.

The judgment and sentence imposed are affirmed. Kline, P.J., We concur: Haerle, J., Lambden, J. (Not for Publication.)

A127321 – In re J.R., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. E.R.

The judgment terminating parental rights is reversed and the matter is remanded for a new section 366.26 hearing. Haerle, J., We concur: Kline, P.J., Richman, J. (Not for Publication.)

A126552 – Impreso, Inc., et al., v. Donovan Bruce.

The order appealed from is affirmed. Haerle, J., We concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

A126112 – Jay Lee et al., v. Taylor Woodrow Homes.

The order of dismissal, filed on June 2, 2009, and the order denying plaintiffs' motion for relief from dismissal, filed on August 20, 2009, are affirmed. The appeal from the order, filed on July 23, 2009, is dismissed. Defendant is awarded costs on appeal. Jenkins, J., We concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

A123218 – The People, v. Xiao Shan Feng.

The judgment is affirmed. Pollak, J., We concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

A125074 – Dylan Monroe, A Minor et al., v. San Mateo Medical Center et al.

The judgment is affirmed. Respondents shall recover their own costs on appeal. McGuiness, P.J., We concur: Pollak, J., Jenkins, J. (Not for Publication.)

A127520 – Jeannine A. Rouse, v. Winslow C. Rouse.

The order dated December 18, 2009, is affirmed. Each party shall bear their own costs on appeal. McGuiness, P.J., We concur: Siggins, J., Jenkins, J. (Not for Publication.)

A125297 – Michael Lynn Gabriel et al., v. Wells Fargo Bank, N.A.

A127675 – Kuniko Yamamoto, v. Wells Fargo Bank, N.A.

The judgments in both actions are affirmed. Pollak, Acting P.J., We concur: Siggins, J., Jenkins, J. (Not for Publication.)

A127110 – In re E.V.E. & A.V.E., Persons Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau, v. J.V. et al.

The juvenile court's order terminating parental rights is affirmed. Jenkins, J., We concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A124193 – The People, v. Richard Joseph Miranda.

The judgment is affirmed. McGuiness, P.J., We concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Four

A127389 – Pacific Specialty Insurance Company, v. Mercury Casualty Company.

The declaratory judgment is reversed and the matter remanded to the trial court, which is ordered to enter a new judgment for Mercury. Reardon, J., We concur: Ruvalo, P.J., Rivera, J. (Not for Publication.)

A125809 – Gigi George et al., v. City and County of San Francisco et al.

The judgment is affirmed. Sepulveda, J., We concur: Ruvalo, P.J., Rivera, J. (Not for Publication.)

Division Five

A126567 – Dan Mescher, v. Pacific Gas & Electric.

The judgment is affirmed. PG&E is awarded costs on appeal. Jones, P.J., We concur: Needham, J., Bruiniers, J. (Not for Publication.)

A124696 – The People, v. Luis Miguel Rodriguez-Ponce.

The judgment is affirmed. Simons, J., We concur: Jones, P.J., Needham, J. (Not for Publication.)

A124448 – Jose Melchor et al., v. Mercy Medical Center Merced.

BY THE COURT: It is ordered that the opinion filed herein on July 30, 2010, be modified as follows: (See Order.)

The modification effects a change in the judgment.

The petition for rehearing is denied. Jones, P.J. (Not for Publication.)

A124449 – Jose Melchor et al., v. Jorge Pena et al.

BY THE COURT: It is ordered that the opinion filed herein on July 30, 2010, be modified as follows: (See Order.)

The modification effects a change in the judgment.

The petition for rehearing is denied. Jones, P.J. (Not for Publication.)

A124445 – Jose Melchor et al., v. Fresno Community Hospital and Medical Center.

BY THE COURT: It is ordered that the opinion filed herein on July 30, 2010, be modified as follows: (See Order.)

The modification effects a change in the judgment.

The petition for rehearing is denied. Jones, P.J. (Not for Publication.)

Tuesday, August 31, 2010

Division One

A122794 – The People, v. Randy Salazar and Eric Anderson.

The superior court clerk is directed to amend the abstracts of judgment as we have indicated above. As thus modified, the judgments are otherwise affirmed in full. Marchiano, P.J., We concur: Margulies, J., Banke, J. (Not for Publication.)

Tuesday, August 31, 2010 (Continued)

A127469 – The People, v. Martin Giovanni Sono.

The judgment is affirmed. Margulies, J., We concur: Marchiano, P.J., Banke, J. (Not for Publication.)

A127418 – In re A.B., a Person Coming Under the Juvenile Court Law. The People, v. A.B.

The judgment is affirmed. Banke, J., We concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A125037 – The People, v. Perry Earl Harden, Jr.

The judgment of conviction is affirmed. Richman, J., We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A125851 – The People, v. Joseph Andres Oakes.

The judgment is affirmed. Haerle, Acting P.J., We concur: Lambden, J., Richman, J. (Not for Publication.)

A127533 - The People, v. Mitchell Lee Graham.

Our independent review having found no arguable issues that require briefing, the judgment of conviction is affirmed. Defendant's request to appoint new counsel is denied. Richman, J., We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A124120 – The People, v. Daniel R. Williams.

The judgment is affirmed. Siggins, J., We concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A124278 – The People, v. Cornell Morrow.

The judgment is modified to reflect imposition of a total restitution fund fine of \$10,000, a parole revocation fine of \$10,000, and a court security fee of \$40. As modified, the judgment is affirmed. Siggins, J., We concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Tuesday, August 31, 2010 (Continued)

A127230 – In re K.Q., et al., Persons Coming Under the Juvenile Court Law. Marin County Department of Health and Human Services, v. L.Q.

The October 27, 2009, dispositional orders in Marin County Superior Court case numbers JV24828A, JV24829A, JV24830A, and JV248831A are vacated and the matter is remanded to the juvenile court with directions to order the Department to comply with the notice provisions of ICWA, including filing copies of ICWA notices, return receipts, and responses, if any, from the notified tribes and agencies. If, after verifying that proper notice has been given, the court determines that no response has been received from a tribe indicating a minor is an Indian child, the dispositional order shall be reinstated with respect to that minor. If a tribe determines that a minor is an Indian child, the court shall conduct a new dispositional hearing with respect to that minor in conformity with ICWA and applicable state law. McGuiness, P.J., We concur: Pollak, J., Siggins, J. (Not for Publication.)

A128106 – The People, v. Kurt Uwe Hahn.

The judgment is affirmed. McGuiness, P.J., We concur: Pollak, J., Siggins, J. (Not for Publication.)

A124734 – The People, v. Blas Chavez Landa.

The judgment is affirmed. Jenkins, J., We concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

A127160 – In re T.R., a Person Coming Under the Juvenile Court Law. The People, v. T.R.

The order appealed from is affirmed. Ruvalo, P.J., We concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A125079 – UBS Financial Services, Inc. et al., v. Timothy A. Chan et al.

The judgment is affirmed. Respondents shall recover their own costs on appeal. Sepulveda, J., We concur: Ruvalo, P.J., Reardon, J. (Not for Publication.)

A126268 – Floro Zarate et al., v. Rodelio Manuel et al.

The June 19 Order is affirmed. Respondents are awarded their costs and attorney fees incurred on this appeal. This matter is remanded to the trial court for a determination as to the amount of attorney fees to be awarded for this appeal. Ruvalo, P.J., We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Tuesday, August 31, 2010 (Continued)

Division Five

A125440 – The People, v. Dijon Holifield.

The judgment is affirmed. Needham, J., We concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

A125040 – The People, v. Richard Gary Bradford.

The judgment is affirmed. Needham, J., We concur: Jones, P.J., Simons, J. (Certified for Publication.)

A126149 – Cotchett, Pitre, & McCarthy, v. Universal Paragon Corporation et al.

The judgment of the superior court confirming the arbitration award is affirmed. Ordinary costs on appeal are awarded to respondent CP&M. Needham, J., We concur: Jones, P.J., Simons, J. (Certified for Publication.)

A125760 – The People, v. Geri Lee Haworth.

The order revoking Haworth's Proposition 36 probation is affirmed. Bruiniers, J., We concur: Jones, P.J., Needham, J. (Not for Publication.)